

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES FARNAN
Plaintiff,

v.

JOSEPH LEHMAN
Defendant.

Case No. C04-5619RBL

ORDER ADOPTING REPORT AND
RECOMMENDATION AND DENYING
MOTION TO AMEND

This matter is before the court on the Report and Recommendation of Magistrate Judge J. Kelley Arnold. [Dkt. #22]. The Report recommended Granting the Defendant's Motion for Summary Judgment and dismissing plaintiffs action with prejudice. It is based on a finding that the Plaintiff had failed to allege that the defendant, Joseph Lehman, personally violated Plaintiff's rights, that Plaintiff could not sue Lehman in his official capacity under the Eleventh Amendment, and finally that Lehman would be qualifiedly immune for his conduct in any event.

Plaintiff filed a comprehensive Objection to the Report, as well as a Motion to Amend his complaint to address the first deficiency outlined in the Report.

The Court has reviewed and considered these filings, and the cases cited in them, as well as the Report and the underlying file in this matter.

The Court is persuaded that while Mr. Lehman may in fact be the correct person to name in this suit, the Magistrate Judge was correct in his determination that he enjoys qualified immunity as the Constitutional

1 violation, even if there was one, was not clearly established such that a reasonable officer would have known
2 that his conduct violated the Plaintiff's rights. Neither the Plaintiff's Objections nor his proposed Amended
3 Complaint remedy this deficiency. For these reasons, the Report and Recommendation is ADOPTED as to
4 the qualified Immunity issue, the Plaintiff's Motion to Amend is DENIED, and this matter is DISMISSED.

5 DATED this 19th day of October, 2005

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9 RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE